IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 796 OF 2002.

Dadasaheb Bhikoba Bhosale
(since deceased through LRs.)
1A. Janardan Dadaso Bhosale & others. ... Appellants.
Versus.
The State of Maharashtra & others. ... Respondents.

Shri G.S.Godbole for the Appellants.

Shri S.V.More, A.G.P. for Respondent Nos.1 and 2.

Shri N.V.Walawalkar, Senior Counsel i/by Shri G.H.Keluskar for the Respondent No.3.

CORAM : ABHAY S.OKA, J.

DATED : 13th April, 2006.

P.C.:

1. Heard the learned Counsel appearing for the parties. The following substantial questions of law arise in the Second Appeal:

i) Whether the Appellate Court committed an error by holding that the burden was on the original Plaintiff to prove that his signature on the alleged partnership deed was forged inasmuch as the Respondent No.3(Org.Defendant No.3) had not discharged the burden on him to show that the partnership deed was signed by the original Plaintiff ?

ii) Whether the Courts below committed an error by

ignoring that even according to the Respondent No.3 his name was entered in the licence on the basis of a partnership deed to which the original Plaintiff was a party and the execution of the said deed was not established ?

iii) Whether the Appellate Court committed an error in holding that right to sue did not survive to the legal representatives of the original Plaintiff ?

2. The Second Appeal is admitted on the above substantial questions of law.

3. Printing is dispensed with. The Appellants are directed to file private paper book along with sufficient number of copies thereof within a period of one year from today. If the paper book is not filed within the stipulated period, the Appeal will stand dismissed for want of prosecution without further reference to the Court.

4. In addition to service through Court, the Advocate for the Appellants is directed to serve private notice to the Respondents by Registered Post A.D. and/or Speed Post A.D. and/or by hand delivery. Hamdast allowed.

Judge.